



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

Ms. Stephanie Verden

MAY 4 2007

FCI Marianna
Satellite Camp
P.O. Box 7006
Marianna, FL 32447

RE: MUR 5813

Dear Ms. Verden:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On September 13, 2006, the Commission found reason to believe that you violated 2 U.S.C. § 432(b)(3), a provision of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law.

If you are interested in engaging in pre-probable cause conciliation, please contact Wanda D. Brown, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within

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seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 2 U.S.C. § 437(g)(a), 11 C.F.R. Part 111 (Subpart A). Similarly, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

We look forward to your response.

Sincerely,



Robert D. Lenhard
Chairman

Enclosures

Factual and Legal Analysis

Procedures

Designation of Counsel Form

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1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENT:** Stephanie Verden **MUR:** 5813

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7 **I. INTRODUCTION**

8 As it pertains to this respondent, this matter was generated based on information
9 ascertained by the Federal Election Commission ("the Commission") in the normal course of
10 carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2).

11 As discussed below, there is reason to believe that Stephanie Verden, an employee of the
12 Georgia Medical Political Action Committee (the "Committee"), knowingly and willfully
13 violated 2 U.S.C. § 432(b)(3), a provision of the Federal Election Campaign Act of 1971, as
14 amended ("the Act"), by commingling Committee funds with personal funds.

15 **II. FACTUAL AND LEGAL ANALYSIS**

16 Information in the Commission's possession indicates that Stephanie Verden, an
17 employee of the Committee, embezzled both Federal and non-Federal funds by diverting
18 Committee receipts into a bank account known only to Verden, and opened for this purpose.
19 Verden was responsible for receiving all incoming funds on behalf of the Committee and the
20 Committee's sponsoring organization, the Georgia Medical Association, and also had authority
21 to open bank accounts for both organizations. Verden diverted a total of \$23,700 in Federal
22 receipts into the separate bank account.

23 The Act prohibits the commingling of Committee Federal funds with "the personal funds
24 of any individual." *See* 2 U.S.C. § 432(b)(3). Through FEC disclosure reports filed with the
25 Commission, the Committee reported a total of \$23,700 in disbursements for "unauthorized
26 diversion of funds" to Stephanie Verden. Verden's address, listed on FEC disclosure reports as

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1 1330 W. Peachtree St., Suite 500, Atlanta, Georgia, is the same address in the Committee's
2 Statement of Organization filed with the Commission. Further, this amount is consistent with the
3 amount of the insurance reimbursement disclosed to the Commission. Thus, there is reason to
4 believe that Verden is the employee responsible for the embezzlement of Committee Federal
5 funds, and that she commingled the Committee's funds with her own funds.

6 The Act also addresses violations that are knowing and willful. *See* 2 U.S.C.
7 § 437g(a)(5)(B). The knowing and willful standard requires knowledge that one is violating the
8 law. The phrase "knowing and willful" indicates that "acts were committed with full knowledge
9 of all the relevant facts and a recognition that the action is prohibited by law...." 122 Cong. Rec.
10 H3778 (daily ed. May 3, 1976); *see also* *AFL-CIO v. FEC*, 628 F.2d 97, 98, 101-02 (D.C. Cir.),
11 *cert. denied*, 449 U.S. 982 (1980) (noting that a "willful" violation includes "such reckless
12 disregard of the consequences as to be equivalent to a knowing, conscious, and deliberate
13 flaunting of the Act," but concluding on the facts before it that this standard was not met) (*cited*
14 *in* *National Right to Work Comm. v. FEC*, 716 F.2d 1401, 1403 (D.C. Cir. 1983)).

15 An inference of knowing and willful conduct may be drawn "from the defendant's
16 elaborate scheme for disguising" his or her actions. *United States v. Hopkins*, 916 F.2d 207,
17 214-15 (5th Cir. 1990). The evidence need not show that the defendant "had specific knowledge
18 of the regulations" or "conclusively demonstrate" a defendant's "state of mind," if there are
19 "facts and circumstances from which the jury reasonably could infer that [the defendant] knew
20 her conduct was unauthorized and illegal." *Id.* at 213 (*quoting* *United States v. Bordelon*, 871
21 F.2d 491, 494 (5th Cir.), *cert. denied*, 439 U.S. 838 (1989)).

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1 In this matter, Verden attempted to disguise her activities by opening a bank account
2 known only to her, and one to which only she had access, inferring that she had knowledge that
3 her conduct was prohibited by law.

4 Accordingly, there is reason to believe that Stephanie Verden knowingly and willfully
5 violated 2 U.S.C. § 432(b)(3) by commingling Committee Federal funds with personal funds.

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